IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR

JUDGMNT

State of Rajasthan & Ors. Vs. Late Sh. Chhattar Singh.

D.B. CIVIL SPECIAL APPEAL NO.99/2005
against the order dated 12.7.2002 passed
in S.B. Civil Writ Petition No.4578/1989.

Date of judgment : 08th December, 2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. L.R. Upadhyay, Dy. Government Advocate.

Mr. A.R. Godara for the respondents.

BY THE COURT: PER HON'BLE RAJESH BALIA, J.)

Preparation of paper book is dispensed with. Heard learned counsel for the parties.

This is a matter of rectification which has been carried to multiple proceedings by way of appeal and writ petition. The petitioner right from beginning

has submitted while his case under Chapter 3 of the Rajasthan Tenancy Act, 1955 was being considered by determining the total land held by him and the surplus land in his part were to be acquired, that land came to his share on partition of ancestral land after death of his father has been included twice and to that extent of computation of total holding in his share as on 1.4.1966 is determined he did not have any surplus land.

In the first instance, the competent officer has found that the petitioner-respondent had no excess land in his hands and the proceedings under chapter III-B of the Rajasthan Tenancy Act were dropped. By reopening the matter, 29 bighas 19 biswas of land were found to be surplus and ordered to be acquired.

The petitioner-respondent's case had been that while computing his holding which were inherited from his father Kishor Singh, who had expired in Samvat year 2015 (1958-59) and mutation in respect of his share in father's land has actually taken place in 1968 has been included twice over. The father's land which

came to his share was stated to be comprised in khasras No.666, 740, 495 and 239 measuring 112 bighas and 12 biswas. The fact about death of petitioner's father in 1958-59 hence before relevant date is not in dispute.

The aforesaid contention of the learned counsel for the respondent-petitioner had not been accepted. The Board of Revenue while noticing the aforesaid contentions has stated that:-

> "I have checked up the record and copies of the jamabandies of Smvt. 2012-2015, 2016-2019, 2020-203 and 2024-2027, but in none of these jamabandies I find these khasra numbers 666,740, 795 min and 239 in the holding (Khata) of Kishore Singh (father)."

However, the learned counsel for the petitioner has produced along with writ petition, the certified copy of mutation of 112 bighas and 12 biswas of land made in favour his favour vide order of the competent officer i.e. S.D.M., Merta dated 8.12.1966 and

31.7.1968 which clearly indicates that these khasra numbers were also the holdings of Kishore Singh and his share has been recorded in his name as a result of partition vide order dated 8.12.1969. Correctness of those documents have not been denied in the writ petition.

In these circumstances, the leaned Single Judge found that it is an error which was apparent on the face of record and deserves to be corrected and allowed the writ petition.

If Annex.1 is not a document which is in contention then nothing survives for consideration in this appeal. Only on this ground the petitioner's contention was rejected that these khasra numbers were not entered in the name of Kishor Singh, but as the land records stand, all these entries were made in the land record in the name of petitioner Chhatar Singh indicating that this land came to his share from Kishore Singh.

Accordingly, there is no merit in the appeal.

The same is hereby dismissed. No order as to costs.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

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